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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/643,284

08/18/2003

Chandrasekhar Narayanaswami

YOR920030212US1

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04/03/2009

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EXAMINER

SHAH, AMEE A

ART UNIT

PAPER NUMBER

3625

NOTIFICATION DATE

DELIVERY MODE

04/03/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptoboca@fggbb.com

**Office Action Summary****Application No.**

10/643,284

**Applicant(s)**NARAYANASWAMI,  
CHANDRASEKHAR**Examiner**

AMEE A. SHAH

**Art Unit**

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 1/29/09.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 3-7,10-14 and 16-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3-7,10-14 and 16-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Claims 3-7, 10-14 and 16-20 are pending in this action.

#### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 29, 2009, has been entered.

#### ***Examiner Note***

(1) The examiner notes that the claims refer to actions performed by a web site. A web site is defined as “a group of related HTML documents and associated files, scripts, and databases that is served up by an HTTP server on the World Wide Web.” (Microsoft Press Computer Dictionary, 3<sup>rd</sup> ed., Microsoft Press, Redmond, Washington, 1997, page 506.) Thus, the examiner interprets the web site as having a server serving the web site, with the web site capable of comprising routines or programs known as spiders as applicant specifies (specification, page 13) and complying thus with 35 USC §101. Prior art that discusses a server for a web site will be considered the same as a web site.

(2) The examiner cites particular pages, columns, paragraphs and/or line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific

Art Unit: 3625

limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that, in preparing responses, the applicant fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

***Claim Rejections - 35 U.S.C. § 103***

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 3, 6, 7, 10, 13, 14, 16, 19 and 20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Henson, US 6,167,383 (hereafter referred to as “Henson”) in view of Ratliff et al., US 2003/0191725 A1, previously cited (hereafter referred to as “Ratliff”) and further in view of Stack, US 6,076,070, previously cited (hereafter referred to as “Stack”).**

Referring to claim 3. Henson teaches a method for pricing a product and/or service at a website (see, e.g., Abstract), the method comprising:

- displaying, at a first website, a product and/or service for sale on the first web site, wherein the product and/or service is available for purchase in one or more configurations, and wherein the one or more configurations comprise a plurality of configurable hardware and/or software components, each configurable hardware and/or software component being associated

with a first purchase price that is displayed to a user buyer (Abstract, Figs. 3A, 3B, 4 and 5 and col. 6, lines 18-30);

- receiving a selection from the user buyer for a plurality of configurable hardware and/or software components for configuring the product and/or service for sale (Abstract, col. 6, lines 18-30 and col. 9, lines 8-24);

- receiving an order at the first web site directly from the user buyer for the product and/or service for sale on the first web site configured according to the plurality of configurable hardware and/or software components that have been selected by the user buyer, wherein the order is associated with a first selling price comprised of the first purchase price associated with each of the configurable hardware and/or software components that have been selected by the user buyer, and wherein the order comprises a request to purchase the product and/or service configured according to the plurality of configurable hardware and/or software components that have been selected by the user buyer, wherein the order is received in response to the user buyer selecting a purchase request widget at the first website (Abstract, Figs. 3B and 6 and col. 6, lines 18-30 – note the order is received when the user adds to the cart, the first price is the unit price which is based on the components selected, and the widget can be the “Update Price,” “Add to Cart,” or “Place Order” buttons).

Henson does not teach instructing, by the first web site in response to receiving the order, at least one web-crawler to query at least a second website for retrieving at least one competitor’s pricing information for the plurality of configurable hardware and/or software components that have been selected by the user buyer, wherein the web-crawler retrieves the at least one competitor’s pricing information after the order has been received from the buyer; reading, by the

Art Unit: 3625

first website, the at least one competitor's pricing information collected from at least second web site for the plurality of configurable hardware and/or software components that have been selected by the user buyer in the order received directly from the buyer; calculating by the first website, a second selling price for the product and/or service configured according to the plurality of configurable hardware and/or software components that have been selected by the user buyer based on calculating a second purchase price for each of the configurable hardware and/or software components that have been selected by the user buyer according to a competitor's price associated with the at least one competitor's pricing information as follows: in response to competitor's price being higher than a highest price that a market will bear, set the second purchase price to the highest price that the market will bear, in response to the competitor's price being; i) lower than the highest price that the market will bear and ii) higher than a lowest profitable price at the first web site, set the second purchase price at the competitor's price, and in response to the competitor's price being lower than the lowest profitable price at the first web site, setting the second purchase price at the lowest profitable price; and presenting, by the first website, the second selling price associated with the order calculated based on a second purchase price associated with each of the configurable hardware and/or software components that have been selected by the user buyer, wherein the second purchase price associated with each of the configurable hardware and/or software components has been calculated based on the competitor's price.

Ratliff teaches a method for providing pricing information at a website (see, e.g., Abstract), wherein the website receives from a buyer selections for a product, such as a travel

Art Unit: 3625

itinerary but which can be applied to computer hardware and software (§0035). The website then instructs, in response to receiving the order, at least one web-crawler to query at least a second website for retrieving at least one competitor's pricing information for the product, wherein the web-crawler retrieves the at least one competitor's pricing information after the order has been received from the buyer (§0186 and 0189). The first website reads the at least one competitor's pricing information collected from at least second web site for the product selected by the buyer (§0189). The first website then calculates a new price for the product based on a competitor's price associated with the at least one competitor's pricing information as follows: in response to competitor's price being higher than a highest price that a market will bear, set the selling price to the highest price that the market will bear, in response to the competitor's price being; i) lower than the highest price that the market will bear and ii) higher than a lowest profitable price at the first web site, set the selling price at the competitor's price, and in response to the competitor's price being lower than the lowest profitable price at the first web site, setting the selling price at the lowest profitable price (§0011, 0037, 0052-0056 and 0078 – note that the price the market will bear depends on the market and can be the price that the buyer is willing to purchase at, the price that the agent has negotiated with, the price that reflects a minimum profit margin, or a number of other prices, that profitable means simply that no loss occurs, and that the companies decide which rules they want to apply to pricing including profitability, competitiveness, revenue goals, or other factors such as marketing opportunities). Ratliff further teaches transmitting the resulting itinerary fares, i.e. order prices, after the re-pricing to the sale terminals (§0191). Ratliff also teaches that it is old and well known in the art for suppliers to research their

Art Unit: 3625

competitors' prices and set their own prices accordingly (§§0010-0011) and that the invention of Ratliff facilitates suppliers to do this electronically (§0011).

Stack teaches a method and system for an on-line price comparison and price reductions whereby once a vendor receives competitor prices, second selling prices for items are calculated based on the competitor prices and vendor thresholds (col. 4, line 58 through col. 5, line 4). The first web site then presents the second selling price to the user buyer (col. 5, lines 7-15).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of Henson, Ratliff and Stack. Henson teaches the known techniques of displaying for sale at a website products available for purchase in a plurality of configurations with a variety of hardware and software components with each component price associated with a purchase price presented to the user, receiving from the user a selection of the components for the product, receiving an order for the product configured with the components associated with a first selling price based on the purchase prices of each component. Ratliff teaches the known techniques of a first website after receiving an order, instructing at least one web crawler to query at least a second website for retrieving competitors' pricing information for items, the first web site reading the competitors' pricing information for the items in an order, and calculating a second purchase price for the items according to competitors' prices, the highest price a market will bear, and the lowest profitable price. Stack teaches the known techniques of calculating a second selling price of a product based on the competitors' prices and other factors/thresholds and presenting the second selling price to the user. It would have been obvious to combine the



Art Unit: 3625

known techniques of Stack of determining and presenting a second selling price of a product, which product can be comprised on multiple components, as taught by Henson, based on competitor prices and second purchase prices of the components, as taught by Ratliff since the claimed invention is merely a combination of old elements, and in the combination each element would have performed the same function as it did separately, and one ordinary skill in the art would have recognized that results of the combination were predictable.

Referring to claim 6. Henson/Ratliff/Stack further teach the method of claim 3 wherein the product and/or service having a plurality of configurations is any one of: furniture, a computer, a car, and a boat (Henson, e.g. Abstract and Ratliff, ¶0035).

Referring to claim 7. Henson/Ratliff/Stack further teach the method of claim 6 wherein each of the first web site and the second web site are an e-commerce web site (Ratliff, ¶0189).

Referring to claims 10, 13, 14, 16, 19 and 20. All of the limitations in apparatus claims 10, 13, 14, 16, 19 and 20 are closely parallel to the limitations of method claims 3, 6 and 7, analyzed above and are rejected on the same bases.

**Claims 4, 5, 11, 12, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henson/Ratliff/Stack as applied to claims 3, 10 and 16 and further in view of Maritzen et al., US 2002/0052797 A1, previously cited (hereafter referred to as “Maritzen”).**

Referring to claim 4. Henson/Ratliff/Stack teach the method of claim 3, as discussed above, wherein buyer information is used to personalize the shopping experience (Ratliff, e.g. ¶0057 – detecting the shopper is a frequent flyer of a particular airline), but does not specifically teach wherein the selling price is further adjusted based on information associated with the buyer of the product/service on the first web site. Maritzen teaches a method and system for customizing prices of a product or service including the known technique of basing the customization on a price factor that includes information associated with a buyer of the product and/or service on the first web site (¶0010 – note the information can be historical purchase activity or group to which user is a member). This known technique is applicable to the method of Henson/Ratliff/Stack as they all share characteristics and capabilities, namely they are all directed to electronic shopping for products.

One of ordinary skill in the art would have recognized that applying the known technique of Maritzen would have yielded predictable results and resulted in an improved method. It would have been recognized that applying the known technique of Maritzen to the teachings of Henson/Ratliff/Stack would have yielded predictable results because the level of ordinary skill in the art demonstrated by the references applies shows the ability to incorporate such references into similar methods. Further, further adjusting the selling price based on information associated with the buyer of the product/service on the first web site as taught by Maritzen would have been recognized by those of ordinary skill in the art as resulting in an improved method that would allow for the price to be set in a way that is likely to induce the customer to buy, as suggested by Maritzen (¶0009).

Referring to claim 5. Henson/Ratliff/Stack and Maritzen further teach the method of claim 4 wherein the information associated with the buyer of the product and/or service on the first web site includes any one of: the volume of the product and/or service that is being purchased by the buyer; the number of orders previously placed by the buyer on the first web site; the type of equipment owned by the buyer; and the classification of the buyer (Maritzen, ¶¶ 0010 and 0039 – note the volume of product and number of orders included in purchase history, and is also the quantity of product to be purchased and the classification of buyer is the group membership).

Referring to claims 11, 12, 17 and 18. All of the limitations in apparatus claims 11, 12, 17 and 18 are closely parallel to the limitations of method claims 4 and 5, analyzed above and are rejected on the same bases.

### ***Response to Amendment***

Applicant's Amendment, filed January 29, 2009, has been entered. Claims 3, 10 and 16 have been amended. In view of the amendments to the claims, the 35 USC§112, 2<sup>nd</sup> paragraph rejections are withdrawn.

***Response to Arguments***

Applicant's arguments, see Remarks of January 29, 2009, with respect to the 35 USC §112, 1<sup>st</sup> paragraph rejection (Remarks, pages 11 and 12), are persuasive and the rejection is withdrawn.

In response to applicant's argument with regards to claims 3, 10, 16 and their dependencies that the references fail to show “retrieving at least one competitor’s pricing information for the plurality of configurable hardware and/or software components that have been selected by the user buyer,” because the references do not show “identifying each configurable component that makes up the products and is obtaining competitor's pricing information for each of these configurable components," (Remarks, page 15), it is noted that the features upon which applicant relies (i.e., identifying each component and obtaining pricing information for each component) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The claims recite, *inter alia*, receiving an order for a product configured according to a plurality of components and retrieving pricing information for the plurality of components as selected by the user in the configured product selected. Thus, the retrieval for prices is for a product configured in a specific way, i.e. a product, which is shown by the art, as discussed above.

In response to applicant's argument that the references fail to show calculating “a second selling price associated with an order,” because the references teach a selling price associated with a product, which is distinguished from an order (Remarks, pages 15-17), the examiner disagrees. As discussed above, Ratliff teaches applying the re-pricing rules to the fares, i.e.

Art Unit: 3625

components, of the itinerary, i.e. order, and then transmitting, i.e. presenting, the resulting itinerary fare to the point of sale terminals (§0191). Thus, a second selling price associated with the order, i.e. itinerary, calculated based on a second purchase price associated with each of the components, i.e. parts of the itinerary, is presented. The examiner notes that it is the combination of all the references that teach the limitations of the claims.

### *Conclusion*

This is a continuing examination of applicant's earlier Application No. 10/643,284. All claims are drawn to the same invention claimed earlier in the application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AMEE A. SHAH whose telephone number is (571)272-8116. The examiner can normally be reached Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeffrey A. Smith/  
Supervisory Patent Examiner, Art Unit  
3625

/AAS/  
March 25, 2009